



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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United States Department of State
2201 C. St. NW
Washington, DC 20520

Dear *****:

This is in response to your inquiry regarding grants made from United States private foundations to the State Department. In particular, you asked whether the Internal Revenue Code requires a private foundation to exercise "expenditure responsibility" over the grant where the terms of the grant describe a clear charitable purpose and there is no earmarking of the moneys by the foundation. We hope the following general information is helpful.

Charitable organizations exempt from federal income tax under Internal Revenue Code (IRC) § 501(c)(3) that are classified as "private foundations" are subject to several strictures, including the provisions of IRC § 4945 against making certain "taxable expenditures." IRC § 4945(d)(4) requires a private foundation to exercise "expenditure responsibility" for a grant to an organization, unless the grant falls within certain exceptions. One exception to this rule is where the grantee organization is described in IRC § 501(a)(1), which would include a governmental unit such as an agency of the United States government.

You have described a grant made to the Department of State to carry out a clearly charitable purpose. You state that although the grant terms describe a particular set of charitable goals or programs to be funded, the private foundation does not earmark specific recipients. Rather, the Department will retain full discretion and control in selecting any persons or organizations to carry out the purposes of the grant, completely independent of the private foundation.

In these circumstances, the grant is similar to that described in Rev. Rul. 81-125, 1981-1 C.B. 515, in which the IRS held a grant by the private foundation does not constitute a taxable expenditure under IRC § 4945(d)(4) and the foundation is not required to exercise expenditure responsibility with respect to the grant in accordance with IRC § 4945(h).

Please advise if I can be of any further assistance on this matter. If you prefer, feel free to contact ***** of this office at *****.

Sincerely,

Steven T. Miller
Director,
Exempt Organizations